

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

HENRY FORD HEALTH SYSTEMS

and

Case 7--CA--31405(2)

MICHIGAN ASSOCIATION OF POLICE--911

*June 10, 1991*  
DECISION AND ORDER

*By Chairman Stephens and Members Cavanaugh and Oviatt*

On March 11, 1991, the General Counsel of the National Labor Relations Board issued a complaint alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain following the Union's certification in Case 7--RC--19301. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); Frontier Hotel, 265 NLRB 343 (1982).) The Respondent filed its answer admitting in part and denying in part the allegations in the complaint.

On May 6, 1991, the General Counsel filed a Motion for Summary Judgment. On May 10, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response on May 23, 1991.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

## Ruling on Motion for Summary Judgment

In its answer the Respondent admits its refusal to bargain, and in its brief to the Board attacks the validity of the certification on the grounds that the Union is precluded under Section 9(b)(3) of the Act from representing the unit of employees for which it was certified because it admits both guards and nonguards to membership, and is affiliated with a union that admits nonguards to membership.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding.<sup>1</sup> The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See Pittsburgh Plate Glass Co. v. NLRB, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.

On the entire record, the Board makes the following

## Findings of Fact

## I. Jurisdiction

The Respondent is a Michigan corporation engaged in the operation of an acute medical care hospital and related medical services in Detroit, Michigan. It maintains its principal office and place of business at 2799 West Grand Boulevard, Detroit, Michigan, and maintains other places of business throughout the Detroit metropolitan area. During the calendar year ending

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<sup>1</sup> Contrary to the Respondent, the "'division of loyalties'" question raised by the Respondent in its brief to the Board was fully considered by the Board in the underlying representation proceeding.

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December 31, 1990, a representative period, the Respondent, in the course and conduct of its business operations, derived gross revenues in excess of \$500,000, and, during the same period, it purchased and caused to be delivered to its facilities in Detroit, Michigan, health products and other supplies valued in excess of \$50,000 directly from points outside the State of Michigan. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. Alleged Unfair Labor Practices

### A. The Certification

Following the election held August 16, 1990, the Union was certified on August 24, 1990, as the collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time guards as defined in the Act employed by the Employer at its facilities located at 2799 West Grand Boulevard, Detroit, MI 48202; Henry Ford Medical Center-Fairlane, 19401 Hubbard Drive, Dearborn MI 48126; Henry Ford Medical Center-West Bloomfield 6777 West Maple Road, West Bloomfield, MI 48322; Henry Ford Medical Center-Lakeside 14500 Hall Road, Sterling Heights, MI 48080; Henry Ford Medical Center-Sterling Heights, 3058 Metropolitan Parkway, Georgetown Medical-Dental Building, Sterling Heights, MI 48310; Henry Ford New Center Pavilion, 2921 West Grand Boulevard, Detroit, MI 48202; Henry Ford Medical Center-Senior Center, 2395 West Grand Boulevard, Detroit, MI 48202; and Henry Ford Medical Center-Troy, 2825 Livernois, Troy, MI 48083; but excluding all access control monitors and supervisors as defined in the Act, and all other employees.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

### B. Refusal to Bargain

Since on or about January 8, 1991, and January 23, 1991, the Union has requested the Respondent to bargain, and, since on or about January 8, 1991, the Respondent has refused. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

## Conclusions of Law

By refusing on and after January 8, 1991, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## Remedy

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. Mar-Jac Poultry Co., 136 NLRB 785 (1962); Lamar Hotel, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); Burnett Construction Co., 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965).

## ORDER

The National Labor Relations Board orders that the Respondent, Henry Ford Health Systems, Detroit, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with Michigan Association of Police--911, as the exclusive bargaining representative of the employees in the bargaining unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time guards as defined in the Act employed by the Employer at its facilities located at 2799 West Grand Boulevard, Detroit, MI 48202; Henry Ford Medical Center-Fairlane, 19401 Hubbard Drive, Dearborn MI 48126; Henry Ford Medical Center-West Bloomfield 6777 West Maple Road, West Bloomfield, MI 48322; Henry Ford Medical Center-Lakeside 14500 Hall Road, Sterling Heights, MI 48080; Henry Ford Medical Center-Sterling Heights, 3058 Metropolitan Parkway, Georgetown Medical-Dental Building, Sterling Heights, MI 48310; Henry Ford New Center Pavilion, 2921 West Grand Boulevard, Detroit, MI 48202; Henry Ford Medical Center- Senior Center, 2395 West Grand Boulevard, Detroit, MI 48202; and Henry Ford Medical Center-Troy, 2825 Livernois, Troy, MI 48083; but excluding all access control monitors and supervisors as defined in the Act, and all other employees.

(b) Post at its above-listed facilities in the Detroit, Michigan area copies of the attached notice marked "'Appendix.'"<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

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<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "'POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD'" shall read "'POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.'"

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. June 10, 1991

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James M. Stephens, Chairman

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Mary Miller Cracraft, Member

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Clifford R. Oviatt, Jr., Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

## APPENDIX

## NOTICE TO EMPLOYEES

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with Michigan Association of Police--911 as the exclusive representative of the employees in the bargaining unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

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HENRY FORD HEALTH SYSTEMS

\_\_\_\_\_  
(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 477 Michigan Avenue, Room 300, Detroit, Michigan 48226-2569, Telephone 313--226--3219.



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